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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,676	06/21/2001	Shoichi Sasaki	039628.99	6776

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OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER
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FLETCHER, MARLON T

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/885,676

Applicant(s)

SASAKI, SHOICHI

Examiner

Marlon T Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9, 11, 14, 16, 17, 19, 21, 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-6, 10, 15, 18, 20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 08/855,116.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

1. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
2. The reissue oath/declaration filed with this application is defective because it fails to contain the required statements:
  - (a) The declaration does not identify the specification to which it is directed as required by 37CFR 1.63(a)(2) MPEP 601.01(a).
  - (b) The declaration must identify whether the inventor is a sole or joint inventor of the invention claimed as required by 37 CFR 1.63(a)(4).

#### **DETAILED ACTION**

##### ***Claim Objections***

3. Claim 11 is objected to because of the following informalities:

In claim 11, the word "redetermined" is misspelled.

Appropriate correction is required.

##### ***Claim Rejections - 35 USC § 103***

4. Claims 1-6, 10, 12, 13, 15, 18, 20, 22, and 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (5,287,772) in view of Schmidt (5,558,588).

Aoki et al. disclose a power output apparatus for outputting power to a drive a

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Shaft, said power output apparatus comprising: an engine having an output shaft (column 6, line 67 through column 7, line 8); a motor (2) having a rotating shaft and inputting and outputting power to and from said rotating shaft; three shaft-type power input/output (figure 1) having three shafts respectively linking said engine and said drive shaft (5) said three shaft-type power input/output means inputting and outputting power to and from a residual one shaft, based on predetermined powers input to an output any two shafts among said three shafts (column 4, lines 50-54); storage means (1) for supplying and receiving an electrical energy required for inputting and outputting power to and from the motor; and braking control means (7) for controlling said engine and said motor, based on a charging state of the storage battery means in order to enable a braking force to be applied to the drive shaft, wherein the braking control means comprises means for enabling said motor to carry out a power operation, thereby applying a braking force to said drive shaft (column 3, lines 47-55; column 4, lines 50-54; and column 6, line 61 through column 7, line 19).

Aoki et al. further disclose a remaining charge detection means that detects the remaining charge of the storage battery means (column 8, line 64 through column 9, line 13); and an engine driving means that drives said engine in a predetermined operating condition, which enables said motor to regenerate electric power, when the remaining charge of the battery is less than a predetermined threshold value (column 18, line 56 through column 19, line 21).

The three shaft-type power input/output means of Aoki et al. is not identical to that of the applicant, although at least three shafts are inherently present. Aoki et al. do not disclose a first and second motor.

However, Schmidt (5,558,588) discloses a three shaft-type power input/output means having three shafts, as disclosed by the applicant (figures 10 and 11). Schmidt disclose first (720) and second (722) motors, ECU (728), storage means (726); wherein the storage means (726) supplies and receives electrical for inputting and outputting power from the second motor (column 33, lines 14-33); and braking control means for controlling the engine, first motor, and second motor in order to enable braking force to be applied to the drive shaft (column 20, lines 6-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Schmidt with the apparatus of Aoki et al., because the teachings allow braking to be controlled for two motors, wherein the driving shafts are controlled, wherein the combination through the teachings of Aoki et al. provide controlling the braking based on a charging state of the battery.

***Allowable Subject Matter***

5. Claims 7-9, 11, 14, 16, 17, 19, 21, 24, and 25, are allowed.
6. The following is an examiner's statement of reasons for allowance:

Although a lot of the limitations are met in the above rejection, the claims allowed contain additional limitations that do not appear obvious in view of the prior art. For example, it does not appear that it would be obvious in view of the claimed limitation,

that one could take the prior art and provide the braking control for the first and second motors to be controlled in based on charging state of the battery in the way claimed by the allowed claims above. Further, limitations are found that appear to define over the prior art. For these reasons, the above claims have been allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Raad (6,543,588) relates to the present invention and discloses many of the claimed features. The reference does not qualify as prior art and merely cited to inform the applicant of related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Marion F. Fletcher  
Primary Examiner  
Art Unit 2837

MTF  
August 22, 2003